

## **REMARKS**

The present Amendment is in response to the Examiner's Office Action mailed August 11, 2006. Claims 1 and 7 are amended and new claim 31 is added. Claims 1-2, 5-8, and 23-31 are now pending in view of the aforementioned new claim.

Reconsideration of the application is respectfully requested in view of the aforementioned amendments to the claims and the following remarks. For the convenience and reference of the Examiner, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

### **I. General Considerations**

Applicant notes that the remarks and amendments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such remarks, or a lack of remarks, and amendments are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicant, of additional or alternative distinctions between the claims of the present application and any references cited by the Examiner, and/or the merits of additional or alternative arguments.

### **II. Claim Objections**

In the Office Action, the Examiner has objected to claim 7 based on certain purported informalities. Applicant submits that in view of the claim amendments set forth herein, the objection to this claim has been overcome and should be withdrawn.

### **III. Claim Rejections**

#### **a. Rejection Under 35 U.S.C. §102(e)**

Applicant respectfully notes that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *Manual of Patent Examining Procedure ("MPEP") § 2131.*

The Examiner has rejected claims 1-2, 8, 23-25, 27, and 28 under 35 U.S.C. § 102(e) as being anticipated by US 6,490,381 to Adair et al. ("*Adair*"). Applicant respectfully disagrees.

In the rejection, the Examiner has alleged that "*Adair* teaches ... an optical substrate (the lens itself, 418), a thin film portion ... that pass or reflects a adjacent wavelength bands ..." However, this allegation does not accurately reflect the language of claim 1. Rather, claim 1 recites in part "... a thin film portion applied to the optical substrate ... [and] a matching layer interposed between the optical substrate and the thin film portion..." *Emphasis added.*

As the foregoing makes clear, the Examiner has failed to assert, much less establish, that *Adair* discloses an "optical substrate" configured and arranged as required by claim 1. As well, the foregoing makes clear that the Examiner has failed to demonstrate that the identical invention is shown in *Adair* in as complete detail as is contained in claim 1. Applicant respectfully submits that for at least these reasons, the Examiner has failed to establish that *Adair* anticipates claim 1 and the rejection of claim 1, as well as the rejection of the corresponding dependent claims 2, 8, 23-25 and 27-28, should accordingly be withdrawn.

Finally, claim 1 has been amended herein to recite in part "... each channel of the first group of channels being adjacent to at least one of the channels in the second group of channels such that channels in the first group are arranged in alternating fashion with respect to channels in the second group ..." Support for this amendment can be found in the application at, for example, paragraph [0028]. In contrast, the Examiner has not established that *Adair* or any other references teaches or suggests this limitation in combination with the other limitations of claim 1. For this reason, as well, the rejection of claim 1, and the rejection of the corresponding dependent claims 2, 8, 23-25 and 27-28, should be withdrawn.

Applicant notes, with regard to the aforementioned amendment to claim 1, that such amendment has not been made in response to any rejection or objection posed by the Examiner, but rather simply to refine the language of that claim. In fact, and as noted above, other bases exist which demonstrate that the Examiner has failed to establish the anticipation of claim 1. Moreover, it should be noted that Applicant has broad discretion to choose and modify the language of a claim and, moreover, various patentable expressions lie within the bounds of such discretion. Because the amendment to claim 1 falls within the bounds of that discretion, such amendment is not related to patentability of that claim.

**b. Rejection Under 35 U.S.C. § 103**

The Examiner has rejected claims 5 and 6 under 35 U.S.C. § 103 as being unpatentable over *Adair* in view of *Tai* (U.S. Patent No. 6,341,040); claims 7 and 30 as being unpatentable over *Adair* in view *Pelekhaty* (United States Patent No. 6,215,592); and claims 26 and 29 as being unpatentable over *Adair* in view *Hellman et al.* (United States Pre-Grant Publ. No. 2003/0185513). Applicant respectfully disagrees. However, in light of the discussion below, Applicant submits that the rejection has been overcome and should be withdrawn.

As noted above in connection with the discussion of claim 1, the Examiner has failed to anticipate that *Adair* anticipates that claim. Inasmuch as the rejection of claims 5-6, 7, 26, 29 and 30 relies on the characterization of *Adair* advanced by the Examiner in connection with the rejection of claim 1, the rejection of claims 5-6, 7, 26, 29 and 30 lacks an adequate basis and should accordingly be withdrawn.

Moreover, and as likewise noted above in the discussion of claim 1, the Examiner has not established that *Adair* teaches or suggests all the limitations of claim 1. Thus, even if the references are combined in the purportedly obvious fashion, the resulting combinations nonetheless fail to include all the limitations of the rejected claims.

For at least the foregoing reasons, Applicant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness with respect to claims 5-6, 7, 26, 29 and 30, and the rejection of such claims should accordingly be withdrawn.

**IV. New Dependent Claim 31**

By this paper, new dependent claim 31 is added. Support for claim 31 can be found in the application at paragraph [0028] for example. Claim 31 is believed to be in allowable condition at least by virtue of its dependence from claim 1.

**CONCLUSION**

In view of the remarks submitted herein, Applicant respectfully submits that each of the pending claims 1-2, 5-8, and 23-31 is in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 11<sup>th</sup> day of January 2007.

Respectfully submitted,

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